

Deficiency Progress Report

CUPA: Butte County Environmental Health
Evaluation Date: November 14 and 15, 2007
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Deficiencies corrected with this update: Deficiency 3, state surcharge submittal; 6, CalARP dispute resolution process; 7, CalARP performance audit; 9, incomplete inspections; 10, hazardous waste violation classification; 13 UST permit transfer form; 14, UST monitoring & response plan checklist; 15, UST permit to operate update.

Status of Deficiencies

2. Deficiency: The CUPA is not annually reviewing their Inspection and Enforcement Plan.

Preliminary Corrective Action: By September 30, 2008, the CUPA shall submit a summary of their review of their Inspection and Enforcement Plan to Cal/EPA.

CUPA Corrective Action, (Update 1): In progress. We will review our Inspection and Enforcement Plan as soon as possible, and submit a summary of findings to Cal/EPA prior to September 30, 2008. We expect that our Inspection and Enforcement Plan will need to be updated to address facility inventory expansion, addition of the Aboveground Petroleum Storage Tank program element, and changes in Chapter 6.95 of the California Health and Safety Code which establish specific administrative penalties for Hazardous Materials Response Plan program violations.

Cal/EPA Response: Cal/EPA accepts the progress Butte County is making towards correcting this deficiency. Cal/EPA feels the CUPA is on track for meeting the September 30, 2008 deadline for reviewing their Inspection and Enforcement Plan.

3. Deficiency: The CUPA is not properly collecting the state surcharges from the regulated facilities.

Preliminary Corrective Action: By the FY 08/09 billing, the CUPA shall properly collect and remit the state surcharge from the regulated facilities as required under Title 27, section 15250.

CUPA Corrective Action, (Update 1):

California Accidental Release Prevention Surcharge

Corrected. We have updated our SWEEPS data management system information to provide for billing and collection of the California Accidental Release Prevention surcharge for all applicable facilities. This surcharge will be collected in upcoming billings in the 2007-8 and future fiscal years

Underground Storage Tank Surcharge

Corrected. Prior to obtaining CUPA certification in February 2005, Butte County Environmental Health (BCEH) collected the \$56.00 per tank UST surcharge each five year permit cycle. Consistent with State Water Resources Control Board Local Guidance letter LG-142, and other guidance, we have not collected the newer \$15.00 Unified Program annual permit UST surcharge until expiration of five year permits.

We are tracking expiration of these five year permits and associated surcharges, and have been collecting the new Unified Program UST surcharge since the FY 2005-6 billing cycle upon expiration of previously issued five year permits permits. By the fiscal year 2010-2011 all five year permits will have expired, and UST facilities will be billed the Unified Program annual tank surcharge.

Cal/EPA Response: The corrective actions taken by the CUPA sufficiently correct this deficiency. No further updates are needed for this deficiency.

4. Deficiency: The CUPA has not established some of the administrative procedures.

Preliminary Corrective Action: By November 15, 2008, the CUPA will submit copies of the administrative procedures required under Title 27, section 15180(e) to Cal/EPA.

CUPA Corrective Action, (Update 1): In progress. Prior to November 15, 2008, we will submit administrative procedures for the areas identified in the Evaluation Summary of Findings:

Public Participation
Records Maintenance
Information requests and methods to prevent the release of confidential and trade secret information

Cal/EPA Response: Cal/EPA feels the CUPA is on track for meeting the November 15, 2008 deadline for establishing the above mentioned administrative procedures.

- 5. Deficiency:** The CUPA is not implementing and enforcing the requirements of the business plan program for all handlers subject to the program. Specifically, the CUPA is neither regulating nor properly exempting agricultural handlers subject to the business plan program.

Preliminary Corrective Action: By May 15, 2008, the CUPA must submit an action plan, with projected timeline, to either regulate all farms subject to the business plan program or to properly exempt these businesses under HSC 25503.5(c)(2), (3), (4), or (5).

CUPA Corrective Action, (Update 1): In progress. Butte County Environmental Health will submit an action plan to address farm business plans, with projected timeline, by May 15, 2008. We have met with the Butte County Farm Bureau and representatives of a neighboring CUPA, to investigate the option of developing streamlined business plan filing procedures for farms. We plan to continue this approach through development of a draft local ordinance for reporting of farm chemical inventories, and provide a simplified process equivalent to regulation under Chapter 6.95. If adopted by the Butte County Board of Supervisors, this proposed ordinance could allow exemption of specific materials or businesses pursuant to HSC 25503.5(c)(2), (3), (4), or (5).

Cal/EPA and OES Response: Cal/EPA and OES accept the progress being made to correct this deficiency and feel the CUPA is on track for meeting the May 15, 2008 deadline for submitting an action plan.

- 6. Deficiency:** The CUPA does not have a CalARP dispute resolution procedure.

Preliminary Corrective Action: By February 15, 2008, the CUPA must establish a dispute resolution procedure that satisfies all elements of 19 CCR 2780.1.

CUPA Corrective Action, (Update 1): Corrected, see attached dispute resolution procedure.

Cal/EPA and OES Response: The CalARP dispute resolution procedure submitted to Cal/EPA meets all the requirements; therefore this deficiency has been corrected. No further updates are needed for this deficiency.

- 7. Deficiency:** The CUPA has not performed an annual CalARP performance audit.

Preliminary Corrective Action: By February 15, 2008, the CUPA must perform an annual CalARP performance audit.

CUPA Corrective Action, (Update 1): Corrected, see attached CalARP performance audit.

Cal/EPA and OES Response: The CUPA sufficiently corrected this deficiency by completing a CalARP performance audit. No further updates are needed for this deficiency.

- 8. Deficiency:** The CUPA has not fully implemented a single, unified Inspection and Enforcement Program and Plan.

Preliminary Corrective Action: The CUPA shall immediately begin fully implement a single, unified Inspection and Enforcement Program and Plan. In addition, by November 15, 2008, the CUPA will update their inspection and enforcement guidance document to address this.

CUPA Corrective Action, (Update 1): In progress. We have conducted a training session with all CUPA staff to fully implement our current Inspection and Enforcement Program Plan (IEPP), as contained in our final CUPA application dated December 2004. We recognize that our IEPP must be reviewed and updated as necessary. We will complete this project as soon as possible, before November 15, 2008.

Cal/EPA and DTSC Response: Cal/EPA and DTSC appreciate the progress being made to correct this deficiency and feel the CUPA is on track for meeting the November 15, 2008 deadline for reviewing and updating their Inspection and Enforcement guidance document.

- 9. Deficiency:** The CUPA did not conduct a complete inspection on 07/18/07. .

Preliminary Corrective Action: See corrective action for deficiency 10 that requires CUPA to receive training on classifying violations.

CUPA Corrective Action, (Update 1): Corrected, see deficiency 10.

Cal/EPA and DTSC Response: The CUPA sufficiently corrected this deficiency by training their staff on the statutory and regulatory definitions for the different hazardous waste violation classifications. No further updates are needed for this deficiency.

- 10. Deficiency:** The CUPA is not citing violations in a manner consistent with the definitions of minor, Class II or Class I as provided in law and regulation.

Preliminary Corrective Action: By March 1, 2008, the CUPA shall ensure that staff is trained and familiar with the statutory and regulatory definitions for the different hazardous waste violation classifications

CUPA Corrective Action, (Update 1): Corrected. All CUPA staff have been provided the Violation Classification Guidance document for Unified Program Agencies, prepared by the Violation Classification Workgroup, under the oversight of

the Unified Program Administration and Advisory Group. We have conducted a training session with all CUPA staff to review and discuss the Violation Classification Guidance document

Cal/EPA and DTSC Response: The CUPA sufficiently corrected this deficiency by training their staff on the statutory and regulatory definitions for the different hazardous waste violation classifications. No further updates are needed for this deficiency.

- 11. Deficiency:** The CUPA is unable to document that all facilities that have received a notice to comply citing violations have returned to compliance within 30 days of notification.

Preliminary Corrective Action: By May 15, 2008, the CUPA will develop a procedure for tracking violations, and return-to-compliance. On February 15, 2008, the corrective action was revised to: By May 15, 2008, the CUPA will develop and begin implementing a procedure for tracking violations and return-to-compliance to ensure that facilities who are cited for violations during inspections have returned to compliance by: 1) submitting a Return to Compliance Certification, 2) by the CUPA following up with the facility beyond during the next routine inspection, or 3) documenting the re-inspection of the facility

CUPA Corrective Action, (Update 1): In progress. As an interim measure, CUPA staff will utilize their Microsoft Outlook Calendar to track reinsertion/return to compliance dates. Prior to May 15, 2008 we will update our SWEEPS activity codes and procedures to track reinspection dates and return to compliance.

Cal/EPA and DTSC Response: Cal/EPA and DTSC accept the interim measure to correct this deficiency and feel the CUPA is on track for meeting the May 15, 2008 deadline.

- 12. Deficiency:** The CUPA is inspecting for universal waste when conducting other regulatory activities. The CUPA is required to formally document how it expends 5% of its hazardous waste resources to the oversight of Universal Waste handlers and silver-only generators.

Preliminary Corrective Action: By May 15, 2008 the CUPA will document how it expends at least 5% of its hazardous waste related resources to the oversight of Universal Waste handlers.

CUPA Corrective Action, (Update 1): In progress. We have updated our facility inspection form to include universal waste inspection categories. Prior to May 15, 2008 we will update our SWEEPS activity tracking system to include program element codes to track Universal Waste inspection activity.

Cal/EPA and DTSC Response: Per the evaluation findings, the CUPA is exceeding the requirement for expending 5% of its hazardous waste resources to the oversight of Universal Waste handlers and silver-only generators. While inspections of these facilities certainly meet the 5% requirement, other activities that can qualify for documentation include training, information dissemination, and other mechanisms mentioned on page 2 of the May 8, 2001 CalCUPA Forum memo located at: <http://www.calcupa.net/programs/hazwaste/cesqissue.pdf>. Cal/EPA and DTSC feel the CUPA is on track for meeting the May 15, 2008 deadline for formally documenting this.

- 13. Deficiency:** Although the CUPA transfers the permit via a fee schedule, the CUPA does not have a detailed transfer permit form that provides a mechanism for the new owner to accept the responsibility of the current permit.

Preliminary Corrective Action: By February 15, 2008 the CUPA will develop a transfer permit form by which the new owner accepts the responsibility of the current operating permit.

CUPA Corrective Action, (Update 1): Corrected, see enclosed Application for Transfer of Permit to Operate, Underground Hazardous Materials Storage Tanks.

Cal/EPA and SWRCB Response: Cal/EPA and SWRCB feel the CUPA sufficiently corrected this deficiency by developing an Application for Transfer of Permit to Operate, Underground Hazardous Materials Storage Tanks. No further updates are needed for this deficiency.

- 14. Deficiency:** CUPA does not have a process for approving monitoring, response and plot plans and ensuring that all of the required elements are addressed.

Preliminary Corrective Action: By February 15, 2008 the CUPA will develop a review checklist/policy procedure to ensure that the monitoring, response, and plot plans are reviewed for required elements, applicability to the system, prior to issuing a Permit to Operate.

CUPA Corrective Action, (Update 1): Completed, see enclosed checklist.

Cal/EPA and SWRCB Response: Cal/EPA and SWRCB feel the CUPA sufficiently corrected this deficiency by developing a review checklist. Please keep in mind that revisions would need to be made if the forms and/or requirements change. No further updates are needed for this deficiency.

- 15. Deficiency:** The statement on the CUPA's Permit to Operate referring to Title 23, section 2712(h) does not include Chapter 6.75. It only references Chapter 6.7.

Preliminary Corrective Action: By November 15, 2008, the CUPA will revise the statement on the Permit to Operate to include the reference to Chapter 6.75.

CUPA Corrective Action, (Update 1): Corrected, see revised Permit to Operate.

Cal/EPA and SWRCB Response: Cal/EPA and SWRCB feel the CUPA sufficiently corrected this deficiency by revising their Permit to Operate. No further updates are needed for this deficiency.